

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3834 OF 2005**

Manohar Khuchinad

...Applicant

vs.

State of Maharashtra & Ors.

...Respondents

Mr.Vipin Kamdi for the Applicant

Ms M.M.Deshmukh,A.P.P. for State-R.No.1

Mr.A.H.Anand for Respondent No.2

**CORAM: A.S.OKA,J.
DATE : JUNE 21,2005.**

P.C.:

1. The Applicant is the accused in a case under Section 138 of Negotiable Instruments Act. The learned Metropolitan Magistrate convicted the Applicant and sentenced him to suffer simple imprisonment for six months and pay fine of Rs.20,00,000/- and in default to suffer S.I. for six months.

2. The Appeal preferred by the Applicant against the conviction and sentence has been admitted by the learned Sessions Judge. While passing the order on bail Application filed by the Applicant in the said Appeal, the learned Additional Sessions Judge noted that on 6th June 2005 the Applicant was taken in custody. The learned Judge suspended the substantive sentence. However, he declined to suspend the sentence in default of payment of fine. He directed that on deposit of fine amount, prayer for bail will be considered.

3. The learned Counsel appearing for the Applicant submitted that there is a settlement between the Applicant and the

original complainant. He placed reliance on the undertaking of the original complainant in which he has accepted the settlement. He submitted that the Applicant was to sell his flat and use the consideration received for paying the agreed amount to the original complainant under the compromise. He submitted that the Applicant is in custody and therefore he is unable to execute the sale and complete the transaction. He stated that if the Applicant is granted temporary bail for six weeks he will be in a position to complete the said transaction and to pay the amount to the complainant. The learned Counsel appearing for the original complainant has also accepted before me that there is a settlement and he has no objection if the temporary bail is granted to the Applicant. The learned Counsel for the complainant stated that the complainant is also present in the Court and on his instructions the aforesaid statements have been made by him.

4. Hence this Application is disposed of by passing the following order :

- i) The Applicant shall be enlarged on temporary bail for a period of six weeks from today subject to furnishing P.R.Bond in the sum of Rs.10,000/- (Rupees ten thousand only).
- ii) Liberty to the Applicant to apply for further relief before the learned Sessions Judges in pending Appeal subject to the compliance with the terms of the compromise agreed

between the parties.

iii) It is clarified that for a period of six weeks, the operation of the sentence awarded in default of payment of fine is also suspended.

. Parties and the concerned Court to act upon an authenticated copy of this order.

JUDGE